

REMARKS

Claims 1-20 are pending in this application. Applicant, by this paper, amends claims 1, 2, 5, and adds new claims 12-20. No new matter is added by amendment. Applicant respectfully requests reconsideration and allowance of all pending claims.

Discussion of Amendments to the Specification

Paragraph [0068] is amended to make consistent the terminology used to identify block 874 illustrated in FIG.8B. The block was originally identified as a “new sector identifier module,” a “new sector identification module,” and a “best sector identifier.” Applicant amends the paragraph to consistently identify the block as the “best sector identifier 874.” No new matter is added by the amendment.

Discussion of Objections to the Drawings

The Examiner objects to the claims for not showing every feature of the invention specified in the claims. In particular, the Examiner objects to the drawings for not showing each of the comparators, as claimed in previous version of claim 1, and a delta generator and best sector identifier from claim 5.

Applicant deletes reference to one of the claimed comparators from claim 1. Similarly, Applicant deletes the delta generator from claim 5. The best sector identifier is identified by reference numeral 874 in FIG. 8B. The figures are believed to illustrate every element presently featured in the claims. As such, no amendments to the drawings are required.

Applicant amends paragraph [0068] of the specification to make consistent the terminology associated with reference numeral 874. Thus, no amendment to the drawing is believed to be required.

Applicant respectfully requests withdrawal of the objection to the drawings in light of the claim amendments and amendment to the Specification.

Discussion of Rejections Under 35 U.S.C. §112

Claims 1-4 were rejected under 35 U.S.C. §112, first paragraph, because the Examiner alleges that Applicant's Specification does not enable several aspects of claim 1. Claims 2-4 were rejected by virtue of their dependence from claim 1.

Applicant amends claims 1-2 and respectfully requests reconsideration and allowance of claims 1-4.

In particular, each of the claimed elements from claim 1 are believed to be expressly supported and enabled by Applicant's Specification, as filed. Each of the elements from claim 1 is discussed below.

Claim 1 recites an access terminal comprising a signal level estimator, comparator, accumulator, and new sector identification module.

The claimed signal level estimator is illustrated in FIG. 8A as the block identified by reference number 806. Applicant's Specification describes block 806 as "Signal level estimator 806 deducts an offset value from the fixed rate signal level of the current serving sector and the sectors in the active set to generate adjusted fixed rate signal levels for all sectors."

Specification, at paragraph [0067]. Thus, Applicant's Specification expressly supports the claimed element.

The claimed comparator is illustrated in FIG. 8A as the block identified by reference number 810. Applicant's Specification describes block 810 as "Comparator 810 determines differences 812, DiffVV, DiffFV, DiffVF, and DiffFF as per procedure 300." *Id.* In procedure 300, Applicant's Specification describes that the differences are determined by comparing the received fixed and variable rate signal levels from each active sector to the adjusted fixed rate signal level and the variable rate signal level from the current serving sector. *See, id.*, at paragraphs [0032]-[0033]. Indeed, the Examiner identifies paragraphs [0034]-[0038] as descriptive of the various comparisons performed by the comparator. Thus, Applicant's Specification expressly supports the claimed element.

The claimed accumulator is illustrated in FIG. 8A as the block identified by reference number 814. Applicant's Specification describes block 814 as "Accumulator 814 applies a hysteresis during accumulation as per procedure 400. Accumulator 814 provides accumulated total credits DeltaCreditVV, DeltaCreditVF, DeltaCreditFV, and DeltaCreditVV to credit authorization module 820." *Id.*, at paragraph [0067]. Applicant's procedure 400 describes the accumulation of total credits based on the comparisons and an signal hysteresis level. *See, id.*, at paragraphs [0039]-[0047]. Thus, Applicant's Specification expressly supports the claimed element.

The claimed new sector identification module is illustrated in FIG. 8A as the block identified by reference number 824. Applicant's Specification describes block 824 as "New sector identifier module 824 selects the highest level among a pool of candidate sectors as per operation of procedure 600. The pool of candidate sectors are formed from the active sectors and ordered according to procedures 500 and 600. New sector identifier 824 outputs new serving sector 826 and transmission mode 828. Transmission mode 828 identifies the new serving sector transmission mode as fixed rate or variable rate." *Id.*, at paragraph [0067]. Thus, Applicant's Specification expressly supports the claimed element.

Each of the elements from claim 1 are believed to be expressly described in Applicant's Specification, as filed. Additionally, Applicant's description of each claimed element is detailed with reference to procedures within Applicant's Specification, which provide detailed description of the functionality of the claimed element. Applicant respectfully contends that the express description of each claimed element in conjunction with the related procedure descriptions detailing the functionality are sufficient to enable the claimed elements.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §112, first paragraph.

Claims 5-11 were rejected under 35 U.S.C. §112, first paragraph, because the Examiner alleges that Applicant's Specification does not enable several aspects of claim 5. Claims 6-11 were rejected by virtue of their dependence from claim 5.

Claim 5 recites an apparatus for selecting a best serving sector in a CDMA communication system. The apparatus includes a comparator, an accumulator, and a best sector identifier. Each of the claimed elements is believed to be fully enabled by Applicant's Specification.

The claimed comparator is illustrated in FIG. 8B as the block identified by reference number 866 and is described at least in paragraph [0068] of the application, as filed.

The claimed accumulator is illustrated in FIG. 8B as the block identified by reference number 870 and is described at least in paragraph [0068] of the application, as filed. The accumulator is described as "Accumulator 870 provides accumulated total credits 872, DeltaCreditVV, DeltaCreditVF, DeltaCreditFV, and DeltaCreditFF to best sector identifier 874." *Specification*, at paragraph [0068], as amended. (*emphasis added*). Thus, Applicant's

Specification expressly described the accumulator as determining delta credits and accumulating the delta credits.

The claimed best sector identifier is illustrated in FIG. 8B as the block identified by reference number 874. Applicant's Specification describes block 874 as "Best sector identifier module 874 selects the sector with the highest soft key among a pool of candidate sectors as per operation of procedure 600. Best sector identifier 874 provides outputs best serving sector 876 and transmission mode 878. Transmission mode 878 identifies the new serving sector transmission mode as fixed rate or variable rate." *Id.*, as amended, at paragraph [0068]. Thus, Applicant's Specification expressly supports the claimed element.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 5 under 35 U.S.C. §112, first paragraph.

Each of claims 2-4 and 6-11 depend from one of claims 1 or 5 and are believed to allowable based on their dependence from an allowable base claim. The Examiner does not provide any independent basis for rejecting any of the dependent claims other than their dependence upon a rejected base claim. Applicant respectfully requests reconsideration and allowance of claims 2-4 and 6-11.

Claim 1 is further rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite based on several terms used in the claim. Applicant amends claim 1 to overcome the rejection and requests reconsideration and withdrawal of the rejection under 35 U.S.C. second paragraph.

Applicant amends claim to clarify the antecedent basis for the term "current serving sector" appearing in lines 4, 5, and 9.

Applicant further amends claim 1 to make unambiguous the operation of the comparator.

Applicant also amends claim 1 to clarify that the "credits" are determined by the accumulator based on the comparator comparisons. As noted in the claim, the new sector identification module utilizes the accumulated total credits as the basis for identifying the best serving sector.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §112, second paragraph.

Discussion of New Claims

Claims 12-20 are added by amendment. Claims 12-20 depend, either directly or indirectly, from claim 1. No new matter is added by amendment. The subject matter of each of the new claims is supported in the Specification, as filed.

Support for claim 12 can be found, for example, at FIG. 8A and in the associated description at paragraph [0067].

Support for claims 13-14 can be found, for example, at paragraphs [0048]-[0049].

Support for claims 15 and 16 can be found, for example, at paragraph [0033].

Support for claim 17 can be found, for example, at paragraph [0067].

Support for claim 18 can be found, for example, at paragraph [0056].

Support for claim 19 can be found, for example, at paragraph [0057].

Support for claim 20 can be found, for example, at paragraph [0061].

Applicant respectfully requests allowance of claims 12-20.

Summary

For at least the foregoing reasons, it is respectfully submitted that claims 1 and 5 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Deposit Account Authorization

Applicant believes that the instant response is filed within the Shortened Statutory Period for response provided in the Office Action of July 29, 2008.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. To the extent necessary, a petition for an

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extension of time under 37 C.F.R. 1.136 is hereby made. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated:

10/28/08

By:

Eric Ho

Eric Ho, Reg. No. 39,711
(858) 658-2752

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 658-2752
Facsimile: (858) 658-2502